

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

THE O.N. EQUITY SALES COMPANY,

Plaintiff,

v.

BETTY WALLACE, Individually and as Trustee of)
the BETTY WALLACE TRUST OF 1992, and as)
Trustee of the BETTY WALLACE EMPLOYEE'S)
RETIREMENT TRUST-BETTY WALLACE)
PROFIT SHARING PLAN 002,

Defendant.

) Case No. 07 CV 0859 WQH AJB

) **ORDER ON EX PARTE MOTION TO**
) **VACATE EARLY NEUTRAL**
) **EVALUATION CONFERENCE OR**
) **TO PERMIT APPEARANCE BY**
) **TELEPHONE**

This matter has come before the Court upon Defendant's Motion to Vacate the Early Neutral Evaluation Conference or to Permit Appearance at the Conference by Telephone. Plaintiff has filed an opposition.

This is an action seeking a declaration that plaintiff is not obligated to arbitrate defendant's claims and for injunctive relief enjoining defendant from proceeding with her allegedly improperly filed arbitration action. As the moving papers point out, there is no issue of damages and the sole issue is whether the disputes between the parties should be arbitrated or not. Weighing all the facts and circumstances, the Court *denies* the Motion to vacate the Early Neutral Evaluation Conference and *grants* the request for a telephonic appearance. In fact, the Court will hold the entire conference, for all parties, telephonically. If it appears that following the telephonic conference there is some

1 prospect for a compromise of the competing positions on the central issue, then an in person
2 appearance by all counsel and parties will be set.


3 To expedite the processing of this narrowly drawn case, the Court orders counsel to hold
4 their Rule 26(f) conference prior to the July 10, 2007 Early Neutral Evaluation Conference. In that
5 way, the parties will be poised to proceeding with discovery, initial disclosures, and an early
6 scheduling conference.

7 The Court therefore, issues the following orders:

- 8 1. The Early Neutral Evaluation Conference scheduled for July 10, 2007 will be held
9 telephonically for all participates. Defense counsel is responsible for setting up a
10 conference call for this hearing and advising the Court and all concerned of the
11 conference arrangements;
- 12 2. Counsel are required to hold their Rule 26(f) conference before July 10, 2007.

13 IT IS SO ORDERED.

14
15 DATED: June 29, 2007

16 
17 Hon. Anthony J. Battaglia
18 U.S. Magistrate Judge
19 United States District Court